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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XA775

Atlantic Highly Migratory Species; Atlantic Shark Management Measures; 2012 Research Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of intent; request for applications.

SUMMARY: NMFS announces its request for applications for the 2012 shark research fishery from commercial shark fishermen with a directed or incidental limited access permit. The shark research fishery allows for the collection of fishery-dependent data for future stock assessments while also allowing NMFS and commercial fishermen to conduct cooperative research to meet the shark research objectives of the Agency. The only commercial vessels authorized to land sandbar sharks are those participating in the shark research fishery. Shark research fishery permittees may also land non-sandbar large coastal sharks (LCS), small coastal sharks (SCS), and pelagic sharks. Commercial vessels not participating in the shark research fishery may only land non-sandbar LCS, SCS, and pelagic sharks. Commercial shark fishermen who are interested in participating in the shark research fishery need to submit a completed Shark Research Fishery Permit Application in order to be considered.

DATES: Shark Research Fishery Applications must be received no later than 5 p.m., local time, on [insert date 30 calendar days after date of publication in Federal Register].

ADDRESSES: Please submit completed applications to the HMS Management Division at:

- Mail: Attn: Delisse Ortiz, HMS Management Division (F/SF1), NMFS, 1315 East-West Highway, Silver Spring, MD 20910.
- Fax: (301) 427-8503

For copies of the Shark Research Fishery Permit Application, please write to the HMS Management Division at the address listed above, call (301) 427-8503 (phone), or fax a request to (301) 713-1917. Copies of the Shark Research Fishery Application are also available at the HMS website at <http://www.nmfs.noaa.gov/sfa/hms/index.htm>. Additionally, please be advised your application may be released under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Karyl Brewster-Geisz or Delisse Ortiz, at (301) 427-8503 (phone) or (301) 713-1917 (fax).

SUPPLEMENTARY INFORMATION: The Atlantic shark fisheries are managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Consolidated HMS Fishery Management Plan (FMP) is implemented by regulations at 50 CFR part 635.

The final rule for Amendment 2 to the Consolidated HMS FMP (73 FR 35778, June 24, 2008, corrected at 73 FR 40658, July 15, 2008) established, among other things, a shark research fishery to maintain time series data for stock assessments and to meet NMFS' research objectives. The shark research fishery also allows selected commercial fishermen the opportunity to earn more revenue from selling additional sharks, including sandbar sharks, than allowed outside of the commercial shark fishery. Only the commercial shark fishermen selected to participate in the shark research fishery are authorized to land/harvest sandbar sharks subject to the sandbar quota available each year. The base quota is 87.9 mt dw per year through December 31, 2012, although this number may be reduced in the event of overharvests, if any.

The selected shark research fishery permittees will also have access to the non-sandbar LCS, SCS, and pelagic shark quotas. Commercial fishermen not participating in the shark research fishery may land non-sandbar LCS, SCS, and pelagic sharks subject to retention limits and quotas per §§ 635.24 and 635.27, respectively.

The 2012 trip limits and number of trips per month will depend on the number of selected vessels, available quota, and objectives of the research fishery. The trip limits and the number of trips taken have changed each year the research fishery has been active. Participants may also be limited on the amount of gear they can deploy on a given set (e.g., number of hooks, length of longline). In 2011, vessels selected to participate in the shark research fishery were allowed a trip limit of 33 sandbar sharks and 33 non-sandbar large coastal sharks. The vessels participating in the shark research fishery fished an average of 2.6 trips per month.

In order to participate in the shark research fishery, commercial shark fishermen need to submit a completed Shark Research Fishery Application showing the vessel and owner(s) meet the specific criteria outlined below.

#### Research Objectives

Each year, NMFS determines the research objectives for the upcoming shark research fishery. The research objectives are developed by a shark board, which is comprised of representatives within NMFS, including representatives from the Southeast Fisheries Science Center (SEFSC) Panama City Laboratory, Northeast Fisheries Science Center (NEFSC) Narragansett Laboratory, the Southeast Regional Office, Protected Species Division (SERO\PSD), and the HMS Management Division. The research objectives for 2012 are based on the Southeast Data, Assessment and Review (SEDAR) 11, 2005/2006 LCS stock assessment

and SEDAR 21, 2010/2011 U.S. South Atlantic blacknose, U.S Gulf of Mexico blacknose, sandbar, and dusky sharks stock assessment. The 2012 research objectives are:

- Collect reproductive, length, sex, and age data from sandbar sharks throughout the calendar year;
- Collect reproductive, length, sex, and age data from all species of sharks for additional species-specific assessments;
- Monitor the size distribution of sandbar sharks and other species captured in the fishery;
- Continue on-going tagging programs for identification of migration corridors and stock structure;
- Maintain time-series of abundance from previously derived indices for the shark BLL observer program;
- Acquire fin-clip samples of all species for genetic analysis;
- Attach satellite archival tags to endangered smalltooth sawfish to provide information on critical habitat and preferred depth, consistent with ESA requirements for such tagging under the SEFSC observer program take permit obtained through the 2008 Section 7 Consultation and Biological Opinion (BiOp) for the Continued Authorization of Shark Fisheries (Commercial Shark Bottom Longline, Commercial Shark Gillnet and Recreational Shark Handgear Fisheries) as Managed under the Consolidated Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (Consolidated HMS FMP), including Amendment 2 to the Consolidated HMS FMP (F/SER/2007/05044);
- Attach satellite archival tags to prohibited dusky sharks and other sharks, as needed, to provide information on daily and seasonal movement patterns, and preferred depth;

- Evaluate hooking mortality and post-release survivorship of dusky, hammerhead, and other sharks using hook timers and temperature-depth recorders;
- Evaluate the effects of controlled gear experiments in order to determine the effects of potential hook changes to prohibited species interactions and fishery yields; and
- Examine the size distribution of sandbar sharks and other species captured in the Mid-Atlantic shark time/area closure off the coast of North Carolina from January 1 through July 31.

#### Selection Criteria

Shark Research Fishery Permit Applications will only be accepted from commercial shark fishermen who hold a current directed or incidental limited access permit. While incidental permit holders are welcome to submit an application, to ensure that an appropriate number of sharks are landed/harvested to meet the research objectives for this year, NMFS will be giving priority to directed permit holders. As such, qualified incidental permit holders will only be selected if there are not enough qualified directed permit holders to meet research objectives.

The Shark Research Fishery Permit Application includes, but is not limited to, a request for the following information: type of commercial shark permit possessed; past participation in the commercial shark fishery (not including sharks caught for display); past involvement and compliance with HMS observer programs per § 635.7; past compliance with HMS regulations at 50 CFR part 635; availability to participate in the shark research fishery; ability to fish in the regions and season requested; ability to attend necessary meetings regarding the objectives and research protocols of the shark research fishery; and ability to carry out the research objectives of the Agency. An applicant who has been charged criminally or civilly (e.g., issued a Notice of

Violation and Assessment (NOVA) or Notice of Permit Sanction) for any HMS-related violation will not be considered for participation in the shark research fishery. In addition, applicants who were selected to carry an observer in the previous 2 years for any HMS fishery, but failed to communicate with NMFS observer programs in order to arrange the placement of an observer before commencing any fishing trip that would have resulted in the incidental catch or harvest of any Atlantic HMS, per § 635.7, will not be considered for participation in the 2012 shark research fishery. Applicants who were selected to carry an observer in the previous 2 years for any HMS fishery and failed to comply with all the observer regulations per § 635.7, including failure to provide adequate sleeping accommodations per § 635.7(e)(1), a sufficiently sized survival craft per § 600.746(f)(6), or failure to pass a USCG safety examination per § 600.746(c)(2) will also not be considered. Exceptions will be made for vessels that were selected for HMS observer coverage but did not fish in the quarter when selected. Applicants who do not possess a valid United States Coast Guard (USCG) safety inspection decal when the application is submitted will not be considered. Applicants who have been non-compliant with any of the HMS observer program regulations in the previous 2 years, as described above, may be eligible for future participation in shark research fishery activities by demonstrating 2 subsequent years of compliance with observer regulations at § 635.7.

#### Selection Process

The HMS Management Division will review all submitted applications that are deemed complete and develop a list of qualified applicants. A qualified applicant is an applicant that has submitted a complete application and has met the selection criteria. Qualified applicants are eligible to be selected to participate in the shark research fishery for 2012. The HMS Management Division will provide the list of qualified applicants without identification

information to the SEFSC. The SEFSC will then evaluate the list of qualified applicants and, based on the temporal and spatial needs of the research objectives, the availability of qualified applicants, and the available quota for a given year, will randomly select approximately 10 qualified applicants to conduct the prescribed research. Where there are multiple qualified applicants that meet the criteria, permittees will be randomly selected through a lottery system. If a public meeting is deemed necessary, NMFS will announce details of a public selection meeting in a subsequent Federal Register notice.

Once the selection process is complete, NMFS will notify the selected applicants and issue the shark research fishery permits. If needed, NMFS will communicate with the shark research fishery permit holders to arrange a captain's meeting to discuss the research objectives and protocols. The shark research fishery permit holders must contact the NMFS observer coordinator to arrange the placement of a NMFS-approved observer for each shark research trip.

A shark research fishery permit will only be valid for the vessel and owner(s) and terms and conditions listed on the permit, and, thus, cannot be transferred to another vessel or owner(s). Issuance of a shark research permit does not guarantee that the permit holder will be assigned a NMFS-approved observer on any particular trip. Rather, issuance indicates that a vessel may be issued a NMFS-approved observer for a particular trip, and on such trips, may be allowed to harvest Atlantic sharks, including sandbar sharks, in excess of the retention limits described in § 635.24(a). These retention limits will be based on available quota, number of vessels participating in the 2012 shark research fishery, the research objectives set forth by the shark board, and may vary by vessel and/or location. When not operating under the auspices of the shark research fishery, the vessel would still be able to land non-sandbar, SCS, and pelagic sharks subject to existing retention limits on trips without a NMFS-approved observer. The

shark research permit may be revoked or modified at any time and does not confer the right to engage in activities beyond those listed on the shark research fishery permit.

Commercial shark permit holders (directed and incidental) are invited to submit an application to participate in the shark research fishery on an annual basis. Permit applications can be found on the HMS Management Division's website at <http://www.nmfs.noaa.gov/sfa/hms/index.htm> or by calling (301) 427-8503. Final decisions on the issuance of a shark research fishery permit will depend on the submission of all required information, and NMFS' review of applicant information as outlined above. The 2012 shark research fishery will start after the opening of the shark fishery and under available quotas as published in a separate Federal Register final rule.

Dated: October 25, 2011

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Galen Tromble,  
Acting Director,  
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National Marine Fisheries Service.

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